

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

FERNCHURCH CONSULTING, L.L.C. : 23 Civ. 2379 (VSB) (GS)
Plaintiff, : ORDER
- against - :
BANK OF AMERICA, N.A., et al., :
Defendants. :
:

X

GARY STEIN, United States Magistrate Judge:

On January 19, 2024, Defendant, Counterclaim Plaintiff, and Third-Party Plaintiff Bank of America, N.A. (“BANA”) filed a motion seeking leave to deposit certain funds in the Disputed Ownership Fund in the Court Registry Investment System and to be dismissed from this action, among other forms of relief. (Dkt. No. 47 (“Motion”)). Along with its Motion, BANA submitted a supporting memoranda of law, declaration, and a proposed order of judgment. (Dkt. Nos. 48, 49 & 51). BANA’s Motion has yet to be fully briefed. Plaintiff and Counterclaim Defendant Fernchurch Consulting, L.L.C. (“Fernchurch”) has not yet submitted its opposition brief due to its request, which was granted by the Court, that it not be obligated to do so until the resolution of all discovery disputes. (Dkt. No. 59). While Third-Party Defendant Felice J. Levine (“Levine”) submitted an opposition brief on February 2, 2024 (Dkt. No. 60), Levine has stated that she wishes to supplement

her brief based on the discovery BANA has since produced.¹ BANA has not yet submitted any reply.

The undersigned held a conference on June 18, 2024 to discuss the status of BANA's Motion as well as the parties' most recent discovery dispute, which was raised by Fernchurch in a letter-motion filed on May 31, 2024. (Dkt. Nos. 71 & 75). At the conference, the undersigned made a ruling on the record granting in part and denying in part Fernchurch's discovery motion. The parties agreed that there were no other lingering disputes over discovery that would serve as a reason to further delay completing the briefing of BANA's Motion. The time for the parties to object to the undersigned's ruling expired on July 3, 2024, and no objections were submitted.

In order to ensure that the Court has before it complete and comprehensive submissions from all interested parties that take into account the information exchanged during discovery after the Motion was filed, the parties are directed as follows:²

1. BANA shall submit a renewed motion for the relief it seeks by Tuesday, July 23, 2024. If BANA does not wish to make any substantive changes to its supporting papers, as BANA indicated at the conference, BANA need only submit a renewed Notice of Motion by that deadline and its pending supporting papers (Dkt. Nos. 48, 49 & 51) will remain operative.

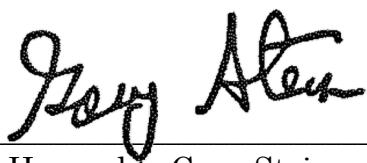
¹ Counsel for Levine made this request at the June 18, 2024 conference before the undersigned.

² While the parties discussed a briefing schedule with the undersigned at the conference, for the sake of clarity, that schedule is superseded by this Order.

2. Fernchurch and Levine shall submit their respective opposition papers by Tuesday, August 13, 2024. Levine's opposition brief shall incorporate any arguments made in her February 2, 2024 opposition brief, as well as any additional arguments based on the subsequent discovery, so that the Court has before it a single submission containing all of Levine's arguments.
3. Although Third-Party Defendant JPMorgan Chase Bank, N.A. ("JPMorgan") did not file an opposition to BANA's Motion or seek an extension of time, and stated at the June 18, 2024 conference that it was taking no position on the Motion, JPMorgan may file an opposition to BANA's renewed motion should it wish to do so. Any such opposition papers shall also be submitted by Tuesday, August 13, 2024.
4. BANA shall submit its reply to the oppositions by Friday, August 30, 2024. BANA shall submit one omnibus reply brief of no longer than 20 pages.

SO ORDERED.

DATED: New York, New York
July 9, 2024



The Honorable Gary Stein
United States Magistrate Judge